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OTHER LEGAL, INSTITUTIONAL AND RELATED MATTERS, AS WELL AS LEGAL AND INSTITUTIONAL ASPECTS OF CROSS-SECTORAL ISSUES

Letter dated 27 June 1991 from the Permanent Representative of Peru to the United Nations Office at Geneva addressed to the Secretary-General of the United Nations Conference on Environment and Development

Sir,

I have the honour to transmit herewith a Peruvian document entitled "Options for an institutional mechanism for the Environment which would permit the participation of Transnational Corporations".

This is intended as a contribution by my delegation to the third session of the Preparatory Committee for the United Nations Conference on Environment and Development and to the Conference itself, to be held in June 1992 in Rio de Janeiro.

I should be most grateful if you could arrange for this document to be distributed during the third session of the Preparatory Committee.

I take this opportunity, Sir, to renew the assurances of my highest consideration.

(Signed) OSWALDO DE RIVERO
Ambassador
Permanent Representative

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READEX FICHE

ANNEX

Options for an institutional mechanism for the Environment which would permit the participation of Transnational Corporations

1. Transnational corporations are leading actors in the international economy. Over the last twenty years, they have generated economic expansion and a technological revolution without precedent, although it has to be admitted that this has not always been compatible with sustainable development. However, these corporations are increasingly creating new technologies to regenerate and preserve the environment. In the final analysis, they are almost the only international agents creating this type of technology.

2. Consequently, the participation of the transnational corporations is vital in any sort of mechanism which forms part of the institutional instruments set up by the 1992 Rio Conference. If this is not achieved, international co-operation in the field of the environment and sustainable development will come to life turning a deaf ear to the real situation in international economic relations and the research and development of "green technologies".

3. For this reason, the transnational corporations have an important role to play in co-operation on the environment. In addition, the executives of these corporations are now recognizing the important implications of sustainable development.

4. The most direct and realistic form of discussing the interaction which exists between market factors and ecological elements, including the transfer of technology to developing countries, is through direct contact with the real actors in the international market, the corporations.

5. Until now, hardly any of the action programmes or development strategies developed by the United Nations have embraced direct contact and co-operation with the real leaders of the international market (the corporations). As a result these programmes have followed the path of interminable debates and political and diplomatic North-South confrontations between governments, completely out of step with the day-to-day business of the international market.

6. In the face of these unfortunate experiences, the new institutions sponsored by the United Nations must have a realistic representation, where States, corporations and society in general are all represented. There must be a renewal of the concept of what constitutes the representativity of the international community in the United Nations, particularly now that the Cold War has come to an end and conditions are ripe for this type of change.

7. In the case of the environment, we should promote innovation and introduce within the institutional framework set up by the 1992 Rio Conference, some mechanism which provides for the involvement of the international business sector.

8. If Agenda 21 is to be effective, it must have the necessary instruments available in order to adopt concrete measures through direct contact and co-operation between governments and transnational corporations.

9. The ILO, with its constitution set up in 1919, later amended and renewed in 1944, was an example of realism, since it reflects the true composition of the international society of the time: governments, businessmen and workers, thus going beyond the situation of unilateral representation by governments alone for the first time. Why not introduce innovations now and establish realistic representativity for the Environment and Sustainable Development? Why not involve the real actors in the market and in society, together with the governments?

10. OPTIONS FOR MECHANISMS DEALING WITH THE ENVIRONMENT WHICH PROVIDE FOR THE PARTICIPATION OF THE TRANSNATIONAL CORPORATIONS

A. SUMMIT FORUM

The Rio Conference should adopt a decision by which the United Nations Secretary-General would convene an annual Summit Forum with the participation of Heads of State and Presidents of Transnational Corporations.

The Secretary-General, together with the Secretary-General of the Rio Conference and the Executive Director of UNEP, would extend an invitation to the Heads of State and of Government of the Bureau of the Rio Conference, as well as any other interested Head of a State Member of the UNEP Governing Council. He would also invite a similar number of Presidents or Chief Executives of Transnational Corporations.

Certain leading non-governmental organizations (NGOs) could also be invited to this Annual Forum.

The annual Summit Forum would discuss the Agenda 21 programmes and specific actions and would issue recommendations to the implementing bodies.

B. SPECIAL SESSIONS OF THE UNEP GOVERNING COUNCIL

At present the UNEP Governing Council holds ordinary sessions every two years to examine its environment programme. The Rio Conference could establish that between each one of these biannual ordinary sessions, a Special Session of the Governing Council be convened, with the participation of transnational corporations.

Along the lines of the ILO model, the transnational corporations could participate in the proportion of one-third, or more, of the 58 Governments, members of the Council. This would imply the participation of about fifteen or twenty Chief Executives representing the companies.

The aim of this Special Session, held every two years, would be to carry out specific actions and sub-programmes of Agenda 21 of the Conference.

In fact, the Governing Council would actually meet every year: one year with its present normal composition to deal solely with its Programme; the following year it would hold a special session with the participation of corporations for implementation and actions related to Agenda 21.

C. A NEW MECHANISM: "THE EXECUTIVE COMMITTEE FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT" WITH REPRESENTATIVES FROM GOVERNMENTS, CORPORATIONS AND SOCIETY IN GENERAL

Version A

The Rio Conference would establish a bipartite Executive Committee with representatives from Governments and transnational corporations. The distribution would comprise 70 per cent for Government Representatives and 30 per cent for Companies.

In order to be effective, this Committee should not be too large. It could be composed of 40 members, 30 Government representatives, at Ministerial level, elected by the Conference, in accordance with equitative geographical distribution, and 10 Chief Executives of Transnational Corporations, representing the most significant areas of production.

Version B

The Rio Conference would establish a tripartite Executive Committee, with representatives of Governments, representatives from the Transnational Corporations and representatives from Non-Governmental Organizations (NGOs), the second and third groups representing society in the field of environment.

In this case, the proportions would be: 50 per cent for Governments, and 25 per cent each for the Corporations and the NGOs.

The Executive Committee would be of a limited size. There would be 30 ministerial-level Government representatives, 15 Chief Executives from the Corporations and 15 Executive Officers from the NGOs, giving a total of 60 members.

This version would have the political attraction of interesting the NGOs, who form a strong national lobby in the field of the environment. This would help acceptance of the creation of a new mechanism for the environment and sustainable development, which would not be confined solely to governmental representation and would provide an opening for the Transnational Corporations and society in general.

The possible drawback could be that the Executive Committee could become purely a political forum as a result of the very nature of the radical approach taken by certain NGOs to the environment. In this case it may lose its executive capacity to some extent. In any case, its real legitimacy could not be denied because of its broad tripartite representation, since the whole spectrum of international society would be represented.

With this Option, in either version, the mechanism to be established would be an instrument for action: one of the instruments to execute the measures, specific actions and sub-programmes of Agenda 21.